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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,768	01/09/2006	Kouichi Matsuda	280025US6PCT	3211
22850 7590 04/20/2011 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER TEKLE, DANIEL T				
ART UNIT		PAPER NUMBER		
2481				
NOTIFICATION DATE		DELIVERY MODE		
04/20/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/563,768

Applicant(s)

MATSUDA, KOUICHI

Examiner

DANIEL TEKLE

Art Unit

2481

Period for Reply
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 6-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed January 31, 2011 have been fully considered but they are not persuasive.

Applicant argument regarding claim 1, 3, 4 and 6-17 limitation have been considered, however the examiner strongly disagrees with applicant position. The cited column and lines Of Suzuki et al. and Evans et al., clearly define the claimed limitation. Specifically paragraph 0018 Evan et al. teaches audio, video and sub-picture multiplexed in a single packet corresponds to the claim 1 limitation "single audio file" means; while the multiplexed data comprises audio and video data that the respective claim language fails to disclose that a "single audio data file" is limited to only audio data and that it does not include any video information. Therefore the examiner maintains that Suzuki et al. and Evans et al. discloses ever limitation of the claim as discussed in the non-office action.

35 U.S.C. 112, sixth paragraph

MPEP 2181 discloses that a claim limitation will be presumed to invoke 35 U.S.C. 112, sixth paragraph if it meets the following 3-prong analysis: (A) the claim limitations must use the phrase "means for" or "step for;" (B) the "means for" or "step for" must be modified by functional language; (C) the phrase "means for" or "step for" must not be modified by sufficient structure, material, or acts for achieving the specific function.

Regarding Claim 4: The means plus function language used in claim 4 indicates that applicant intends to invoke 35 U.S.C. 112 paragraph six. Where means plus function language is used, claim limitations are interpreted to read on only the corresponding structure disclosed in the specification and equivalents thereof. The disclosed structure used for the "means for retaining an audio data file" consider to read on (Recording

Medium 11 of Figure 1 of Applicant's specification as indicated in [page 7 lines 9-12]); "means for reproducing the audio data" consider to read on (Data Reader 12 of Figure 1 of Applicant's specification as indicated in [page 7 lines 9-12]); "means for generating an image" consider to read on (Image processor 22 of Figure 1 of Applicant's specification as indicated in [page 8 lines 1-9]); "means for displaying the image" consider to read on (Display Panel 23 of Figure 1 of Applicant's specification as indicated in [page 8 lines 7-9])

The prior art element is a structural equivalent of the corresponding element disclosed in the specification. That is, the prior art element performs the function specified in the claim in substantially the same manner as the function is performed by the corresponding element described in the specification. Therefore, the prior art element is an equivalent.

Regarding Claim 6: The means plus function language used in claim 6 indicates that applicant intends to invoke 35 U.S.C. 112 paragraph six. Where means plus function language is used, claim limitations are interpreted to read on only the corresponding structure disclosed in the specification and equivalents thereof. The disclosed structure used for the "means for indicating a viewpoint" consider to read on (Applicant's specification as indicated in [page 14 lines 8-14]); "means for generating generates image" consider to read on (Image processor 22 of Figure 1 of Applicant's specification as indicated in [page 8 lines 1-9]).

The prior art element is a structural equivalent of the corresponding element disclosed in the specification. That is, the prior art element performs the function specified in the claim in substantially the same manner as the function is performed by the corresponding element described in the specification. Therefore, the prior art element is an equivalent.

Regarding Claim 13: The means plus function language used in claim 13 indicates that applicant intends to invoke 35 U.S.C. 112 paragraph six. Where means plus function language is used, claim limitations are interpreted to read on only the corresponding structure disclosed in the specification and equivalents thereof. The disclosed structure used for the "means for reading out the audio and the character data" consider to read on (Data reader 12 of Figure 1 of Applicant's specification as indicated in [page 7 lines 9-12]).

The prior art element is a structural equivalent of the corresponding element disclosed in the specification. That is, the prior art element performs the function specified in the claim in substantially the same manner as the function is performed by the corresponding element described in the specification. Therefore, the prior art element is an equivalent.

Regarding Claim 14: The means plus function language used in claim 14 indicates that applicant intends to invoke 35 U.S.C. 112 paragraph six. Where means plus function language is used, claim limitations are interpreted to read on only the corresponding structure disclosed in the specification and equivalents thereof. The disclosed structure

used for the "means for separating the character data" considers reading on (Data Processor 13 of Figure 1 of Applicant's specification as indicated in [page 7 line 23 to Page 8 line 1]).

The prior art element is a structural equivalent of the corresponding element disclosed in the specification. That is, the prior art element performs the function specified in the claim in substantially the same manner as the function is performed by the corresponding element described in the specification. Therefore, the prior art element is an equivalent.

Regarding Claim 15: The means plus function language used in claim 15 indicates that applicant intends to invoke 35 U.S.C. 112 paragraph six. Where means plus function language is used, claim limitations are interpreted to read on only the corresponding structure disclosed in the specification and equivalents thereof. The disclosed structure used for the "means for detecting an identifier" considers reading on (Controller 24 of Figure 1 of Applicant's specification as indicated in [page 9 lines 9-13]).

The prior art element is a structural equivalent of the corresponding element disclosed in the specification. That is, the prior art element performs the function specified in the claim in substantially the same manner as the function is performed by the corresponding element described in the specification. Therefore, the prior art element is an equivalent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 3-4, 6-16 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 6,245,982), further in view of Evans et al. (US 2004/0001695).

Regarding Claim 1: Suzuki et al. discloses an audio reproduction method implemented by an audio reproduction apparatus, the method: obtaining, at the audio reproduction apparatus, character data defining a shape of a character (**column 8 lines 1-21: performance image reproducing apparatus read out desired motion components from the motion components database**), and motion data defining motion of the character having the shape specified by the character data (**column 8 lines 1-21: Playing piece of music based on the motion components**); generating, at the audio reproduction apparatus, an character image having the shape specified by said character data(**column 1 lines 39-47: displaying image based on playing music**), and displaying the generated image of character correspondingly to reproduction of audio data in according with the motion indicated by motion data (**column 8 lines 1-21: Playing piece of music based on the motion components**), wherein image of character is altered and displayed at a coordinate position at a specific time in audio reproduction (**column 8 lines 1-21: motion component database creates or edit motion descriptive information indicative of the manner of playing the piece of music based on the motion components**).

Suzuki et al. invention discloses audio data having audio data, character data defining a shape of a character and motion data defining a motion of character; except fail to point out these character are in a single audio data file; however evans et al. discloses a system 200 that can render data from a DVD. System 200 includes an application 202 that communicates with a source component 204 that reads data off of a DVD 206. The data that is read off of the DVD includes audio and video data that has been encoded and multiplexed together in a packet (**paragraph 0018 and fig. 2**).

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teaching of Evans et al. invention into Suzuki et al. invention in order to synchronize audio and video contents to present a more coherent presentation.

Regarding Claim 3: Suzuki et al. discloses an audio reproduction method according to claim 1, wherein image of character data has a three-dimensional shape (**Figure 4A: start and finish**), and method further comprises: displaying the image of character from a viewpoint based on a predetermined input operation indicating the viewpoint (**column 8 line 64 to column 9 line 10: motion capturing using three 3D digitizer mounted on certain position**).

Regarding Claim 4 and 6: Claim 4 and 6 reject for the same reason to claim 1 and 3 respectively as discussed above.

Regarding Claim 7: Suzuki et al. discloses an audio reproduction method according to claim 1, wherein said motion data is described in VRML (Virtual Reality Modeling Language) **(column 14 lines 52-53)**.

Regarding Claim 8: Suzuki et al. disclose an audio reproduction apparatus according to claim 4, wherein said motion data is described in VRML (Virtual Reality Modeling Language) **(column 14 lines 52-53)**.

Regarding Claim 9: Suzuki et al. discloses an audio reproduction method according to claim 1, further comprising: reading out the audio data and the character data from a storage medium at a same time **(column 7 lines 33-47: reading data from storage 9 and column 8 lines 1-21: playing piece of music based on the motion components to generate a sequence of image display)**.

Regarding Claim 10: Suzuki et al. discloses an audio reproduction method according to claim 1, further comprising: separating the character data from the single audio data file **(*examiner interpretation of “separating the character data from the single audio data file”: as present on page 7, line 9, to page 8, line 9, and Fig. 1 data processor 13 of applicant specification, [a character data multiplexed with the audio file. Separating process is done though processor 13]; column 8 lines 1-21: AV data needs separate at the output device in order to playback*)**.

Regarding Claim 11: Suzuki et al. discloses an audio reproduction method according to claim 1, further comprising: detecting an identifier in the single audio data file indicating a presence of the character data within the single audio data file **(column 12**

lines 30-47: musical tone can be generate and eliminate in synchronism tone-generating and tone eliminating motions in the performance image).

Regarding Claim 12: Suzuki et al. discloses an audio reproduction method according to claim 9, wherein the reading does not include reproducing an image signal (**column 12 lines 30-47: musical tone can be generate and eliminate in synchronism tone-generating and tone eliminating motions in the performance image).**

Regarding Claim 13-16: Claim 13-16 reject for the same reason to claim 9-12 respectively as discussed above.

Regarding Claim 17: Claim 17 reject for the same reason to claim 1 discussed above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-

1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00
Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter-Anthony Pappas can be reached on 571-272-7646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel Tekle/
Examiner, Art Unit 2481

/Peter-Anthony Pappas/
Supervisory Patent Examiner, Art Unit 2481